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LETTER DATED 8 DECEMBER 1999 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNTIED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have been instructed by my Government to lodge a strong protest over arbitrary arrests and detention of Serbs in Kosovo and Metohija, the autonomous province of the Yugoslav constituent Republic of Serbia, by the international security force (KFOR) and the United Nations Interim Administration Mission in Kosovo (UNMIK).

The arrested Serbs, about 40 of them, are held incommunicado; they have been prevented from choosing lawyers and from receiving visits from their families and doctors and are denied the right to legal defence, a basic human right under the International Covenant on Civil and Political Rights of 1966. Article 14 of the Covenant provides for the right of an arrested person to have legal assistance of his/her own choosing or to have legal assistance assigned whenever the interests of justice so require.

The arrests and detention represent most flagrant violations of Security Council resolution 1244 (1999), which reaffirms the sovereignty and territorial integrity of the Federal Republic of Yugoslavia as set forth in the Helsinki Final Act and annex II to resolution 1244 (1999).

KFOR makes unlawful arrests of Yugoslav citizens who are then investigated by illegal authorities, while UNMIK prevents Yugoslav lawyers from providing them with legal assistance. Some of them have been held without charge for more than two months, which is contrary to the provisions of the Covenant on Civil and Political Rights and constitutes additional pressure on Serbs to leave Kosovo and Metohija.

The violations have been pointed out also by the French lawyer Mr. Eric Dupond-Moretti. During his recent visit to Kosovo and Metohija he was denied access to three Serbs - Andjelko Kolasinac, former mayor of Orahovac, Dr. Vekoslav Simic and Stanislav Levic - arrested on charges of alleged war crimes and held in Prizren since last August. His request to represent them was rejected and he established that they were denied legal assistance by Serbian lawyers and that the investigating judge, witnesses and the defence lawyers they were assigned ex officio were all Albanians.

Ample evidence about the violation of the human rights of Serbs has been provided also in the report of Mr. Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (see A/54/396, para. 120), in which it is said that KFOR has not only "failed to locate and arrest KLA 'police' and 'military police' associated with detentions and abductions, but there are reliable reports that KFOR officers have relied and continue to rely on information provided by KLA on persons whom KFOR should itself arrest". In bringing up a statement by a KFOR official that "there are no police who are not guilty of crimes" made upon an enquiry by family members into the whereabouts of a missing police officer, the Special Rapporteur points out that "such reasoning not only subverts the rule of law and the fundamental principle of presumption of innocence, but erodes the authority of KFOR and civilian police".

In failing to stop ethnic Albanian violence and the resultant exodus of the Serbs from Kosovo and Metohija, KFOR has grossly violated the provisions of Security Council resolution 1244 (1999), particularly those relative to the preservation of the multi-ethnic, multi-confessional and multicultural character of this Serbian province. By arbitrarily arresting and detaining Serbs, by denying them legal assistance by Serbian lawyers and by having them investigated and tried by Albanians, KFOR has lent a helping hand to Albanian separatists in Kosovo and Metohija.

The Government of the Federal Republic of Yugoslavia calls upon you to use your influence and authority with the Security Council to make it take urgent measures to stop the illegal practices of KFOR and UNMIK. IT IS of paramount importance for the success of United Nations involvement in bringing peace and security to Kosovo and Metohija that legal norms are respected and that people are accorded due process of law.

I should be grateful if you would have the present letter circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.